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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,698	06/02/2005	Magnus Von Knebel-Doeberitz	03528.0145.00US00	9319
27194 7590 10/21/2010 HOWREY LLP-CA C/O IP DOCKETING DEPARTMENT 1299 Pennsylvania Avenue, NW, Room B-3 Washington, DC 20004-2402				
EXAMINER AEDER, SEANE				
ART UNIT		PAPER NUMBER		
1642				
MAIL DATE		DELIVERY MODE		
10/21/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/511,698

**Applicant(s)**

VON KNEBEL-DOEBERITZ ET AL.

**Examiner**

SEAN E. AEDER

**Art Unit**

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 May 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 45-50, 52-56, 58-62 and 80-82 is/are pending in the application.
- 4a) Of the above claim(s) 48-50, 54-56, 60-62 and 80-82 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 45, 46, 52, and 58 is/are rejected.
- 7) ☒ Claim(s) 47, 53 and 59 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Proficiency's Patent Drawing Review (PTO-544)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/13/10 has been entered.

Claims 45-50, 52-56, 58-62, and 80-82 are pending.

Claims 45 and 47-50 have been amended by Applicant.

Claims 48-50, 54-56, 60-62, and 80-82 have been withdrawn.

Claims 45-47, 52, 53, 58, and 59 are currently under consideration.

This Office Action contains new rejections.

***Rejections Withdrawn***

All previous rejections are withdrawn.

***New Rejections***

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 45, 46, 52, and 58 are rejected under 35 U.S.C. 102(e) as being anticipated by Lo et al (US 6,277,974 B1; 8/21/01).

Lo et al teaches a 79 amino acid polypeptide, SEQ ID NO:433, which consists of a fragment of instant SEQ ID NO:2 (see sequence comparison below) and has an immunogenic portion with a length of about 10-20 amino acids. Without reciting which amino acids are considered "mutated", SEQ ID NO:433 comprises at least 3 amino acids of a mutated part of SEQ ID NO:2. Lo et al further teaches a pharmaceutical composition comprising SEQ ID NO:433 and a physiologically acceptable carrier (see lines 1-13 of column 35, in particular) used to make antibodies. Lo et al further teaches kits comprising SEQ ID NO:433 and a solid support (lines 13-28 of column 63, in particular), which would detect products (including antibodies) that specifically recognize SEQ ID NO:433.

#### Comparison of SEQ ID NO:433 and instant SEQ ID NO:2:

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Query Match          20.7%; Score 323; DB 2; Length 79;
  Best Local Similarity 100.0%;
  Matches 64; Conservative 0; Mismatches 0; Indels 0; Gaps
0;

Qy      83 MLLLETLKVKQTILEPIPTSLKLPPIAVSCYWLQHTETKAKLHHLSLLLTMLVGPLIAII
142
      |||
Db      1 MLLLETLKVKQTILEPIPTSLKLPPIAVSCYWLQHTETKAKLHHLSLLLTMLVGPLIAII 60
```

Qy 143 NSPG 146  
1111  
Db 61 NSPG 64

***Allowable Subject Matter***

Claims 47, 53, and 59 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Summary***

No claim is allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SEAN E. AEDER whose telephone number is (571)272-8787. The examiner can normally be reached on M-F: 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Misook Yu can be reached on 571-272-0839. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sean E Aeder/  
Primary Examiner, Art Unit 1642